Mr RK Gupta, Advocate.
Mr IPS Sidhu, Sr DAG Punjab.

The petitioner seeks regular bail for the offence under Section 20 of the NDPS Act, 1985.

As per the prosecution case, when the Police party was patrolling the area, they saw two persons coming on foot. One of them was holding a white plastic bag in his hand. They were apprehended and one of them disclosed his name as Kuldip Singh (non-applicant) and the person holding the bag disclosed his name as Ram Daman (petitioner). On the search of Kuldip Singh, 1 kg of Charas was recovered and on the search of the petitioner 1 kg 20 gms of Charas was recovered. The petitioner is in custody since the date of his arrest on 23.7.2004 and no substantial progress has been made in the trial. The co-accused of the petitioner namely Kuldip Singh was granted concession of bail on 12.10.2004 by the learned Special Court, Ludhiana. It was observed that the Police had not filed challan and, therefore, he was released on bail keeping in view the provisions of Section 167(2) CrPC. Besides, it was observed that the quantity of Charas recovered was 1 kg which is a non-commercial quantity.

In the present case, though the recovery is 1 kg 20 gram of Charas which is not non-commercial quantity, however, it is appropriate to note that the petitioner has been in custody since 12.10.2004 and his co-accused Kuldip Singh has been released on bail. The petitioner is stated to be having contraband of 20 gms more than his co-accused. It is the case of the petitioner that the weight of the glazed paper has not been deducted while weighing the contraband and this has made material difference. The

petitioner has been in custody for the last more than two years. The trial in the case is also not progressing. Article 21of the Constitution provides for a right of speedy trial to an accused. Whenever the right of an accused to the guarantee provided under Article 21 of the Constitution is infringed, the Court can pass appropriate orders. The petitioner has not shown to be habitual in the commission of offences under the NDPS Act.

In view of the aforesaid circumstances, the petitioner, on his furnishing personal bond and surety in the like amount to the satisfaction of the trial Court, shall be admitted to bail.

26.4.2007. (S.S.SARON)
ASR JUDGE